

# **EXHIBIT 29**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In Re:

BERNARD L. MADOFF INVESTMENT                      Adv.Pro.No.  
SECURITIES LLC,    08-01789 (BRL)  
Debtor.

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IRVING H. PICARD, Trustee for the  
Liquidation of Bernard L. Madoff  
Investment Securities LLC,  
Plaintiff,    Adv.Pro.No.  
09-1182 (BRL)

v.

J. EZRA MERKIN, GABRIEL CAPITAL,  
L.P., ARIEL FUND LTD., ASCOT  
PARTNERS, L.P., GABRIEL CAPITAL  
CORPORATION,

Defendants.

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VIDEOTAPED DEPOSITION of JASON L. ORCHARD, as  
reported by NANCY C. BENDISH, Certified Court  
Reporter, RMR, CRR and Notary Public of the States  
of New York and New Jersey, at the offices of BAKER  
HOSTETLER, 45 Rockefeller Plaza, New York, New York  
on Tuesday, October 8, 2013, commencing at 10 a.m.

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1	A P P E A R A N C E S:		1	E X H I B I T S (Cont'd)	
2			2	IDENT.	DESCRIPTION PAGE
3	BAKER & HOSTETLER, LLP		3		
	45 Rockefeller Plaza				
	New York, New York 10111				
4	BY: BRIAN W. SONG, ESQ.			Trustee 147 Diligence Memo 12/15/06,	
	JOSHUA B. ROG, ESQ.			SMC-NYAG020278-81. 136	
5	ROBYN M. FELDSTEIN, ESQ.		4		
	For Irving H. Picard, Trustee		5	Trustee 148	Email 2/14/08, BS00262900-04. 142
6	for the Liquidation of BLMIS		6	Trustee 149	Email 10/30/08, BS00080688. 145
7			7	Trustee 150	Email 11/12/08, BS00080810-12. 149
	DECHERT, LLP		8	Trustee 151	Email 12/14/08, BS00078815-17. 155
	1095 Avenue of the Americas		9		
	New York, New York 10036-6797		10	Orchard-1	Email 12/13/06, SMC-NYAG020277. 166
9	BY: NEIL A. STEINER, ESQ.		11	Orchard-2	Email 6/17/04, GCC-P 0155285-88. 167
	DIANE PRINC, ESQ.		12		
10	For Gabriel Capital Corp.		13		
	and J. Ezra Merkin		14		
11			15		
12	REED SMITH LLP		16		
	599 Lexington Avenue		17		
13	New York, New York 10022		18		
	BY: JOHN L. SCOTT, ESQ.		19		
14	For Gabriel, LP and Ariel Fund, LP		20		
15			21		
	NORTON ROSE FULBRIGHT		22		
16	666 Fifth Avenue		23		
	New York, New York 10103		24		
17	BY: DAVID I. BARRACK, ESQ.		25		
	For the Receiver for Ascot Partners				
18					
19	SIMPSON THACHER & BARTLETT, LLP				
	425 Lexington Avenue				
20	New York, New York 10017				
	BY: JAMES G. KREISSMAN, ESQ.				
21	MEREDITH C. DUFFY, ESQ.				
	For Spring Mountain Capital and the Witness				
22					
23	ALSO PRESENT:				
24	MAX NICHOLAS, ESQ., Spears Imes				
	GREG SANDUKAS, ESQ., Spring Mountain				
25	JAMES SOTO, Video Technician				

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1	I N D E X		1	THE VIDEOGRAPHER: Good morning,	
2	WITNESS	PAGE	2	we're on the record. The time on the monitor is	
3			3	10:01 a.m. Today is the 8th day of October, 2013.	
4	JASON L. ORCHARD		4	We're here at 425 Lexington Avenue, New York, New	
	Examination by Mr. Song	5	5	York for the purposes of taking the videotape	
5	by Ms. Princ	163	6	deposition of Mr. Jason Orchard in the matter of	
6			7	Irving H. Picard versus J. Ezra Merkin, et al. filed	
7			8	in the U.S. Bankruptcy Court, Southern District of	
8			9	New York.	
9			10	The videographer is James Soto, the	
10			11	court reporter is Nancy Bendish, both of Bendish	
11			12	Reporting.	
12	E X H I B I T S		13	All counsel appearances will be noted	
13	IDENT.	DESCRIPTION PAGE	14	in the transcript.	
14			15		
	Trustee 138	Litigation Protective Order. 7	16	J A S O N L E E O R C H A R D,	
15			17	65 East 55th Street, 33rd Floor,	
	Trustee 139	Investment Recommendation	18	New York, New York 10022, sworn.	
16		Document SMC-NYAG020253-65. 70	19	EXAMINATION BY MR. SONG:	
17	Trustee 140	Recommendation Document	20	Q.	Good morning, Mr. Orchard.
		SMC-NYAG020269-76. 76	21	A.	Good morning.
18			22	Q.	My name is Brian Song and with my
	Trustee 141	Email 11/2/05, BS00078893-98. 77	23		colleagues we represent the Trustee in this matter.
19			24		I'm going to be taking your
	Trustee 142	Email 11/4/05, BS00078912-16. 86	25		deposition this morning. And before we get started,
20					
	Trustee 143	Email 11/8/05, BS00078923-24. 91			
21					
	Trustee 144	Investment Summary Document			
22		Entitled "Ascot,"			
		SMC-NYAG000001-04. 97			
23					
	Trustee 145	Email 11/30/05, BS00153305-07. 120			
24					
	Trustee 146	Hedge Funds Monthly Review,			
25		SMC-NYAG007789-811. 132			

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<p>1 Q. Did Mr. Merkin explain to you how</p> <p>2 Ascot compensated BLMIS?</p> <p>3 A. The understanding was that the assets</p> <p>4 invested within that strategy helped the market</p> <p>5 making business, and so that was how -- why</p> <p>6 Mr. Madoff was willing to do this.</p> <p>7 Q. And that's something Mr. Merkin</p> <p>8 explained to you?</p> <p>9 A. I believe that to be the case.</p> <p>10 Q. Do you recall the first time you met</p> <p>11 with Mr. Merkin?</p> <p>12 A. The first time I met with Mr. Merkin</p> <p>13 was probably not long after I started at Spring</p> <p>14 Mountain Capital.</p> <p>15 Q. And what were the circumstances of</p> <p>16 that meeting?</p> <p>17 A. An introduction, as I had just joined</p> <p>18 Spring Mountain Capital and I think I was with</p> <p>19 Launny and Greg and there was no specific agenda.</p> <p>20 Q. And where was Spring Mountain</p> <p>21 Capital's offices at the time?</p> <p>22 A. At that time we were at 450 Park</p> <p>23 Avenue on the 23rd floor.</p> <p>24 Q. And do you know if Mr. Merkin had</p> <p>25 offices in that same building?</p>	<p>1 A. I don't believe he had any.</p> <p>2 Certainly in the investment committees I attended he</p> <p>3 was -- there was -- he was not present, nor was he</p> <p>4 referenced in any decisions that were made.</p> <p>5 Q. Does Spring Mountain Capital still</p> <p>6 have a relationship with Mr. Merkin today?</p> <p>7 MS. PRINC: Objection.</p> <p>8 A. No. Not that I'm aware.</p> <p>9 Q. Do you know when the relationship</p> <p>10 between Spring Mountain Capital and Mr. Merkin</p> <p>11 ended?</p> <p>12 A. Soon after the Madoff fraud was</p> <p>13 detected.</p> <p>14 Q. And that's December 2008?</p> <p>15 A. I believe so.</p> <p>16 Q. Did you ever report to Mr. Merkin in</p> <p>17 connection with your responsibilities at Spring</p> <p>18 Mountain Capital?</p> <p>19 MR. KREISSMAN: Object to form.</p> <p>20 A. I'm not sure what you mean by report.</p> <p>21 Q. Well, if Mr. Merkin is a -- it was</p> <p>22 your understanding that Mr. Merkin is a partner or</p> <p>23 part owner of Spring Mountain Capital, did you</p> <p>24 ever -- did Mr. Merkin have any input into your</p> <p>25 reviews as an employee of Spring Mountain Capital?</p>
Page 63	Page 65
<p>1 A. He did.</p> <p>2 Q. What was the relationship between</p> <p>3 Spring Mountain Capital and Ezra Merkin at the time</p> <p>4 you joined?</p> <p>5 MR. KREISSMAN: Objection to form.</p> <p>6 MS. PRINC: Objection.</p> <p>7 MR. KREISSMAN: And vague.</p> <p>8 MS. PRINC: Same objection.</p> <p>9 A. I understood Ezra to be a financial</p> <p>10 supporter and partner of Spring Mountain Capital.</p> <p>11 Q. Did Mr. Merkin have any management</p> <p>12 responsibilities for Spring Mountain Capital?</p> <p>13 MS. PRINC: Object to form.</p> <p>14 A. None. None that I was aware of.</p> <p>15 Q. When you say you understood that he</p> <p>16 was a partner of Spring Mountain Capital, what do</p> <p>17 you mean by that?</p> <p>18 A. That he and Launny owned the</p> <p>19 business.</p> <p>20 Q. Did Mr. Merkin sit on the investment</p> <p>21 committee for Spring Mountain Capital?</p> <p>22 A. No.</p> <p>23 Q. Do you know whether or not Mr. Merkin</p> <p>24 had any control over the investments of Spring</p> <p>25 Mountain Capital?</p>	<p>1 MR. KREISSMAN: Object to form.</p> <p>2 MS. PRINC: Objection.</p> <p>3 A. No, I don't believe he had any</p> <p>4 reviews -- or any input in any of that.</p> <p>5 Q. Do you know whether Spring Mountain</p> <p>6 Capital had any investments with any funds</p> <p>7 associated with Mr. Merkin?</p> <p>8 A. Yes.</p> <p>9 Q. This is between 2004 and 2008.</p> <p>10 A. Okay.</p> <p>11 Q. What funds did Spring Mountain</p> <p>12 Capital have investments with Mr. Merkin?</p> <p>13 A. We had both onshore and offshore</p> <p>14 funds, so all the four fund of fund products that</p> <p>15 Ezra offered, Ascot LP, Ascot Limited, Gabriel and</p> <p>16 Ariel.</p> <p>17 Q. Which of those funds are the onshore</p> <p>18 funds?</p> <p>19 A. Ascot Fund LP and Gabriel.</p> <p>20 Q. And which are the offshores?</p> <p>21 A. Ascot Fund Limited and Ariel Fund,</p> <p>22 Ltd.</p> <p>23 Q. Was there any difference between the</p> <p>24 investment strategies of Ariel and Gabriel?</p> <p>25 MR. KREISSMAN: Object to form.</p>

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<p>1 MR. SONG: Let me strike that.</p> <p>2 Q. Did you have an understanding as to</p> <p>3 what the investment strategies were for Ariel and</p> <p>4 Gabriel?</p> <p>5 A. Yes.</p> <p>6 Q. What were those investment</p> <p>7 strategies?</p> <p>8 A. It was a fund focused on primarily</p> <p>9 corporate credit, and within corporate credit</p> <p>10 primarily distressed and opportunistic investments.</p> <p>11 Q. Do you have an understanding as to</p> <p>12 what the investment strategy was for Ascot Partners?</p> <p>13 A. I understood Ascot to be primarily a</p> <p>14 Madoff feeder fund.</p> <p>15 Q. And what about Ascot Fund; what was</p> <p>16 your understanding of their strategy?</p> <p>17 A. The same.</p> <p>18 Q. When you used the term "Madoff feeder</p> <p>19 fund," what do you mean by that?</p> <p>20 A. The fund managed by Ezra Merkin that</p> <p>21 gave Bernard Madoff and his firm trading discretion</p> <p>22 when opportunities within certain guidelines were</p> <p>23 met.</p> <p>24 Q. What was your understanding as to the</p> <p>25 amount of Ascot's allocation to BLMIS?</p>	<p>1 more managed or discretion of the trades -- more and</p> <p>2 more of the assets more frequently were invested</p> <p>3 with Bernard Madoff.</p> <p>4 Q. When did Spring Mountain Capital</p> <p>5 first invest with Ascot?</p> <p>6 A. Prior to me joining. I don't know</p> <p>7 the exact dates.</p> <p>8 Q. Were the investments with Ariel and</p> <p>9 Gabriel also prior to your start with Spring</p> <p>10 Mountain Capital?</p> <p>11 A. They were.</p> <p>12 Q. Do you know whether or not Spring</p> <p>13 Mountain Capital conducted any due diligence on</p> <p>14 Mr. Merkin's funds prior to their investments?</p> <p>15 MS. PRINC: Object to form.</p> <p>16 MR. KREISSMAN: Object to form.</p> <p>17 A. I believe they conducted due</p> <p>18 diligence for both -- with both of those</p> <p>19 investments.</p> <p>20 Q. And what's the basis of your</p> <p>21 knowledge?</p> <p>22 A. The discussions with our -- other</p> <p>23 members of the investment committee who suggested</p> <p>24 that they did.</p> <p>25 Q. Were there any due diligence files</p>
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<p>1 MR. KREISSMAN: Objection, form.</p> <p>2 A. I had understood that over time it</p> <p>3 became virtually all of the -- the trading was done</p> <p>4 at BLMIS. When it was not traded, the assets were</p> <p>5 held at -- within Ezra -- under Ezra's control.</p> <p>6 MR. KREISSMAN: Are you asking that</p> <p>7 question or -- that's why I objected because the</p> <p>8 word allocation, I didn't know what you meant,</p> <p>9 allocated as a percentage of what.</p> <p>10 MR. SONG: I did mean the amount of</p> <p>11 funds under Ascot's control being traded at BLMIS.</p> <p>12 MR. KREISSMAN: Okay.</p> <p>13 Q. So, thank you for your answer.</p> <p>14 You testified that you understood</p> <p>15 that over time it became virtually all the trading</p> <p>16 was done at BLMIS. When did that -- when did it</p> <p>17 become virtually all at BLMIS?</p> <p>18 MR. KREISSMAN: Object to form.</p> <p>19 A. I'm not sure when it became all, but</p> <p>20 in my diligence meeting with Mr. Merkin it was</p> <p>21 suggested that he would do -- he would attempt to</p> <p>22 execute a similar strategy on his own and was not,</p> <p>23 as time evolved he was not able to achieve the</p> <p>24 results that Bernard Madoff and his firm were able</p> <p>25 to achieve, so over time the fund became more and</p>	<p>1 related to Mr. Merkin's funds when you started at</p> <p>2 Spring Mountain Capital?</p> <p>3 MR. KREISSMAN: Object to form,</p> <p>4 vague.</p> <p>5 A. I don't recall seeing any.</p> <p>6 Q. Did you conduct ongoing due diligence</p> <p>7 on Ascot, Ariel or Gabriel?</p> <p>8 A. Eventually, yes.</p> <p>9 Q. When?</p> <p>10 A. Can't -- I don't remember the exact</p> <p>11 dates, but as the Aozora relationship evolved I</p> <p>12 became more active in that diligence process.</p> <p>13 Q. Do you know Michael Autera?</p> <p>14 A. Yes.</p> <p>15 Q. Who is Mr. Autera?</p> <p>16 A. He's the chief financial officer of</p> <p>17 Gabriel Capital.</p> <p>18 Q. When did you first meet him?</p> <p>19 A. I interacted with him regularly while</p> <p>20 at Rutherford Asset Management and probably never</p> <p>21 actually met him until I joined Spring Mountain</p> <p>22 Capital.</p> <p>23 Q. And why were you interacting with</p> <p>24 Mr. Autera while you were at Rutherford Asset</p> <p>25 Management?</p>